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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,894	04/18/2001	Dale R. Adams	60472.301402	8362
22918	7590	05/05/2004	EXAMINER	
PERKINS COIE LLP P.O. BOX 2168 MENLO PARK, CA 94026			DESIR, JEAN WICEL	
		ART UNIT	PAPER NUMBER	
		2614	14	
DATE MAILED: 05/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/837,894	ADAMS ET AL.
	Examiner	Art Unit
	Jean W. Désir	2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 20 February 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-22,24-26 and 29-32 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-8,11,12,14-17,24-26 and 29-32 is/are allowed.
- 6) Claim(s) 9,10,13 and 18-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12.13.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 9, 10, 13, 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Adams et al (6,380,978). (*This is the same rejection mailed on 11/20/03*)

The applied reference has a common Inventor with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

#### **Claim 9:**

The claimed "detecting a noise level in a video stream created by a pulldown technique" is disclosed, see col. 10 lines 42-50, col. 14 lines 39-40;

the claimed "and dynamically adjusting a threshold detection level based upon said detected noise level and said video stream" is disclosed, see Fig. 8 items 196, 194, col. 11 lines 28-58.

**Claim 10:**

"determining that the pulldown technique is 3:2" is disclosed, see col. 12 lines 43-59, Fig. 7 item 166;

"determining if a current field difference value is low or high" is disclosed, see col. 12 lines 26-43;

"and calculating the new threshold detection level based on the current field difference value and a plurality of prior field difference values" is disclosed, see Fig. 7 items 154, 156, Fig. 8 items 194, 196.

**Claim 13:**

"determining that the pulldown technique is 2:2" is disclosed, see col. 12 lines 43-59, Fig. 7 item 172;

"obtaining a first, second and third previous frequency detection value" is disclosed, see col. 11 line 59 to col. 12 line 9;

"and dynamically adjusting a threshold detection level based on the first, second and third previous frequency detection values" is disclosed, see Fig. 9 items 212, 210, col. 11 line 59 to col. 12 line 25.

**Claim 18:**

The claimed "deinterlacing said interlaced video stream to create a progressive video stream" is disclosed, see Adams at col. 9 lines 37-46;

the claimed "determining a confidence level with respect to said progressive video stream; and post processing said progressive video stream based upon said determined confidence level" is disclosed, see Adams at Fig. 6 items 142, 154, 152', col. 10 lines 33-50.

Claims 19-21 are inherent to Adams' disclosure.

Claim 22 is disclosed, see Fig. 7 items 154, 156, and Fig. 10.

### ***Response to Arguments***

3. Applicant's arguments, regarding claims 9, 13, and 18, have been fully considered but they are not persuasive.

Regarding claims 9 and 13, on page 19 of the REMARKS, Applicants argue that "Adams merely discloses a fixed, programmable threshold. Since it is programmable, it can be changed but it is not dynamically adjusted during processing". These arguments are not persuasive, because nowhere Adams teaches the programmable threshold is fixed, as underlined by the Applicants. The Examiner agrees with the Applicants that it is changeable because it is programmable, and this is the change that teaches the "dynamically adjusting" as claimed and as pointed out in the rejection.

Regarding claim 18, on page 19 of the REMARKS, Applicants argue that "Adams does not teach the use of a confidence level in order to determine post processing". These arguments are not persuasive, because Adams clearly shows that confidence level is determined (item 142 of Fig. 6 and as pointed out in the rejection) as claimed, and post processing (items 150, 154, 152' of Fig. 6 and as pointed out in the rejection)

the progressive video stream based upon the determined confidence level as claimed. Thus, contrary to the Applicants' arguments, Adams does teach the claimed invention as claimed.

***Allowable Subject Matter***

4. Claims 1-8, 11-12, 14-17, 24-26, 29-32 allowed.

**Conclusion**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean W. Désir whose telephone number is (703) 308 9571. The examiner can normally be reached on 5/4/9 - First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on (703) 305 4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWD  
May. 2, 04



MICHAEL H. LEE  
PRIMARY EXAMINER